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LLOYD PROPERTIES, A CALIFORNIA
LIMITED PARTNERSHIP

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF VENTURA

LLOYD PROPERTIES, A CALIFORNIA
LIMITED PARTNERSHIP,

Petitioner and Plaintiff,

v.

COUNTY OF VENTURA, a political subdivision
of the State of California; VENTURA COUNTY
BOARD OF SUPERVISORS; and DOES 1 through
20, inclusive,

Respondents and Defendants.

Case No. _____

CEQA CASE

**VERIFIED PETITION FOR WRIT OF
MANDAMUS AND COMPLAINT FOR
DAMAGES AND DECLARATORY
RELIEF**

[Pub. Res. Code § 21000, *et seq.*
(California Environmental Quality Act);
Code Civ. Proc. § 1085 (alternatively
1094.5)]

JURY TRIAL DEMANDED

INTRODUCTION

1. Local oil and gas production in Ventura County has been a vital part of the local economy since the late 1860s. The industry supports more than 2,000 jobs and provides tens of millions of dollars in state and local tax revenues to fund schools, fire protection, police, and public health services. Simply put, oil and gas production fuels the Ventura County local economy.

2. For over a hundred years, the Lloyd family has played an integral role in developing Ventura County's most lucrative oil fields and transforming the County into a prosperous and vibrant community.

3. Petitioner and Plaintiff LLOYD PROPERTIES, A CALIFORNIA LIMITED PARTNERSHIP ("Lloyd" or "Petitioner"), which was founded by the Lloyd family, owns mineral rights covering thousands of acres of property in Ventura County. For decades, Lloyd or its lessees, have operated oil production facilities, pursuant to long-standing permits and approvals issued by the County, consistent with all applicable regulations. Petitioner has donated significant sums of money to dozens of charitable organizations in Ventura. The primary source for these charitable efforts is income derived from oil and gas royalties produced from Petitioner's mineral properties.

4. But Ventura County has turned a blind eye to the enormous economic value the oil and gas industry brings to the County and its residents.

5. On September 15, 2020, the County Board of Supervisors certified an Environmental Impact Report ("EIR") for the Ventura County 2040 General Plan Update ("GPU") and approved the GPU. The GPU imposes unduly restrictive and unlawful policies that would unilaterally alter the terms of long-standing permits governing oil production in the County, abrogate longstanding vested rights, and render oil and gas production impossible.

6. The County's adoption of the GPU will result in the loss of thousands of good-paying jobs and millions of dollars in tax revenue that have supported the Ventura County economy for decades. To make matters worse, the County took these actions in the midst of a global pandemic that has already placed California in an economic crisis.

7. While the GPU purportedly "reflects the County's vision for the future," that future will be plagued with fewer jobs, less tax revenue, and underfunded public services as a result of the

1 GPU's unlawful policies and the County's reckless decision-making process. There is no evidence
2 that these drastic measures are required to stop immediate threats to public health or safety, and no
3 justification for the abrogation of vested property rights.

4 8. Accordingly, Petitioner brings this Petition for Writ of Mandamus challenging the
5 decisions of Respondents and Defendants COUNTY OF VENTURA and VENTURA COUNTY
6 BOARD OF SUPERVISORS (collectively, "Respondents" or the "County") to certify the EIR for
7 the GPU, adopt findings under the California Environmental Quality Act ("CEQA"), and approve
8 the GPU.

9 9. Petitioner's vested rights may not be abridged absent due process and a finding of
10 nuisance or payment of adequate compensation. "The owner of a property right to drill for and
11 extract oil in a proven field acquired under a permit, may not constitutionally be deprived thereof
12 without payment of just compensation except upon a showing that its exercise constitutes a
13 nuisance." (*Trans-Oceanic Oil Corp v. Santa Barbara* (1948) 85 Cal.App.2d 776, 789.) The
14 County has not found that any of the oil and gas production activities on Petitioner's properties
15 constitute a nuisance, which is a necessary prerequisite before such a taking can occur by post hoc
16 regulation. To the contrary, at all times relevant herein, the continued operations and drilling at
17 Petitioner's properties have occurred lawfully, in compliance with its permits, and in a manner that
18 does not create harm or a nuisance to local communities. Alternatively, the diminishing-asset
19 doctrine contemplates that Petitioner must be allowed to continue drilling operations throughout
20 the entirety of a mineral lease where it had intended to use the entire lease for the extraction of oil
21 and gas.

22 10. In the Complaint for Declaratory Relief and Damages, Petitioner seeks declaratory
23 relief and damages on the grounds that:

24 a. Petitioner has a vested right to allow the continued extraction of its
25 mineral rights within the County as authorized under existing permits.

26 b. The adoption of the GPU is a temporary and permanent taking of
27 Petitioner's property rights for public use without prior compensation in violation of Article I,
28

1 section 19 of the California Constitution and the Takings Clause of the Fifth Amendment of the
2 United States Constitution, and incorporated by the Fourteenth Amendment.

3 c. The adoption of the GPU violates Petitioner's substantive due process
4 under Article I, section 7 of the California Constitution and the Fourteenth Amendment of the
5 United States Constitution. The GPU infringes on Petitioner's property rights in an arbitrary,
6 irrational, and discretionary manner, which is not related to any legitimate governmental purpose.

7 11. To remedy these injuries, Petitioner also seeks a Writ of Mandamus compelling the
8 County to vacate the plan amendments as preempted by state and federal law, in excess of the
9 County's authority, and in violation of the California Constitution.

10 12. In pursuing this action, which involves enforcement of important rights affecting
11 the public interest, Petitioner will confer a substantial benefit on the general public, citizens of
12 Ventura County, and the State of California, and therefore will be entitled to attorneys' fees and
13 costs pursuant to Code of Civil Procedure section 1021.5. In addition, Petitioner will be entitled to
14 recover attorneys' fees and costs as part of their claim for inverse condemnation pursuant to Code
15 of Civil Procedure section 1036.

16 PARTIES

17 13. Petitioner LLOYD PROPERTIES, A CALIFORNIA LIMITED PARTNERSHIP,
18 is a citizen of California that owns property and mineral rights covering thousands of acres in
19 Ventura County. Petitioner has several legally cognizable interests in the GPU and will be
20 negatively affected by the GPU, including but not limited to the GPU's adverse environmental
21 impacts, impairment of Petitioner's vested rights and constitutional rights to due process, and
22 unlawful taking of Petitioner's properties without just compensation.

23 14. Respondent COUNTY OF VENTURA, a political subdivision of the State of
24 California, is responsible for regulating and controlling land use in its territory, including
25 implementing and complying with the provisions of CEQA. The County is the "lead agency" for
26 purposes of Public Resources Code Section 21067, with principal responsibility for conducting
27 environmental review of the proposed actions and complying with CEQA and other state laws.

28 15. Respondent VENTURA COUNTY BOARD OF SUPERVISORS is the elected

1 decision-making body of the County. As the decision-making body, the Board is charged with the
2 responsibilities under CEQA for conducting a proper review of the GPU's environmental impacts
3 and granting the various approvals necessary for the GPU.

4 16. Petitioner does not know the true names and capacities, whether individual,
5 corporate, associate, or otherwise, of Defendants and Respondents DOES 1 through 20, inclusive,
6 and therefore sue said parties under fictitious names. Petitioner will amend this Petition and
7 Complaint to show their true names and capacities when the same have been ascertained.

8 **JURISDICTION AND VENUE**

9 17. This Court has jurisdiction over this action pursuant to California Code of Civil
10 Procedure sections 1085 (alternatively section 1094.5) and 526; and Public Resources Code section
11 21168.5 (alternatively section 21168).

12 18. Venue is proper in Ventura County Superior Court pursuant to Code of Civil
13 Procedure sections 393(b), 394(a) and 395 because Respondents in this action are the County of
14 Ventura and its Board of Supervisors, a local agency, and all the acts and omission occurred in
15 Ventura County.

16 19. Petitioner has complied with Public Resources Code section 21167.5 by serving a
17 notice upon the County indicating its intent to file this Petition. Petitioner served the notice on
18 October 13, 2020. Proof of Service of this notification, with the notification, is attached as Exhibit
19 A.

20 20. Petitioner has elected to prepare the record of proceedings in the above-captioned
21 proceeding or to pursue an alternative method of record preparation pursuant to Public Resources
22 Code Section 21167.6(b)(2). Notification of the Election to Prepare the Administrative Record is
23 attached as Exhibit B.

24 21. Petitioner has complied with the requirements of Public Resources Code section
25 21167.7 and Code of Civil Procedure section 388 by mailing a copy of this Petition to the California
26 Attorney General on October 15, 2020. A copy of the letter transmitting the Petition to the Attorney
27 General with Proof of Service is attached as Exhibit C.

28 22. Petitioner has performed any and all conditions precedent to filing this instant action

1 and has exhausted any and all administrative remedies to the extent required by law, including, but
2 not limited to, submitting extensive written comments objecting to the certification of the EIR and
3 approval of the GPU. All issues raised in the petition for a writ of mandamus were raised before
4 the County by Petitioner, other members of the public, or public agencies prior to approval of the
5 GPU.

6 23. This Petition is timely filed within 30 days after Respondents' decision to issue a
7 Notice of Determination in accordance with Public Resources Code section 21167(c).

8 24. Petitioner has no plain, speedy, or adequate remedy in the court of ordinary law
9 because Petitioner and its members will be irreparably harmed by the ensuing damage caused by
10 implementation of the GPU and Respondents' violations of CEQA, as well as other aspects of state
11 law. In the absence of such remedies, the County's approval will remain in effect in violation of
12 state law.

13 STATEMENT OF FACTS

14 Lloyd Properties

15 25. The Lloyd family has owned property in Ventura for more than a hundred years and
16 has been an active participant in the community during that time.

17 26. Petitioner and Plaintiff LLOYD PROPERTIES, A CALIFORNIA LIMITED
18 PARTNERSHIP ("Lloyd" or "Petitioner"), which was founded by the Lloyd family, was an integral
19 part of establishing the Arroyo Verde Park and the Poinsettia Pavilion in the City of Ventura. More
20 recently, in 2016, Petitioner donated 860 acres of undeveloped land in Ventura County to the
21 Rancho Ventura Conservation Trust. This land will be preserved as open space in perpetuity for
22 the enjoyment of the Ventura community.

23 27. In addition, Petitioner has donated significant sums of money to dozens of charitable
24 organizations in Ventura County that support underprivileged families, education, and the medical
25 community and the arts. The primary source of funds for these charitable efforts is income derived
26 from oil and gas royalties produced from the Ventura oilfield.

27 28. Petitioner and its predecessor affiliated companies have either extracted oil and gas
28 or leased their rights to other operators who have extracted oil and gas, for more than a hundred

1 years.

2 29. Petitioner is the holder of two so-called “antiquated conditional use permits”
3 (“CUPs”), one issued in 1948 and the other in 1949. CUPs are required to operate an oil and gas
4 exploration and production facility in the unincorporated areas of Ventura County.

5 30. Petitioner’s CUPs broadly authorize extraction activities, allowing Petitioner or its
6 lessees to drill and extract oil, gas, and other hydrocarbons in perpetuity on its mineral properties.
7 Petitioner and its predecessor affiliated companies have continuously used its CUPs for more than
8 70 years.

9 31. Petitioner’s oil and gas production activities long pre-date issuance of the CUPs, but
10 subsequent to issuance of the CUPs, all operations have been conducted in accordance with their
11 terms and all other applicable regulations.

12 CEQA and General Plans

13 32. California law requires that each county and city in the state develop and adopt a
14 general plan. (Gov. Code § 65300.) The general plan consists of a statement of development
15 policies and includes a diagram or diagrams and text setting forth objectives, principles, standards,
16 and plan proposals. It is a comprehensive long-term plan for the physical development of the
17 county or city. In this sense, it is a “blueprint” for development.

18 33. By statute, the general plan is required to be updated “periodically.” (Gov. Code
19 § 65103(a).) While there is no requirement for how often to update the general plan, the planning
20 period has traditionally been 15-20 years.

21 34. General plans must include seven elements: land use, transportation, conservation,
22 noise, open space, safety, and housing.

23 35. Because general plans govern the type and location of new development, new or
24 amended general plans may lead to significant changes in the environment. CEQA requires cities
25 and counties to study these potential environmental impacts as part of the adoption or update
26 process. (14 Cal. Code Regs. § 15378.) Where those impacts may be significant, the city or county
27 must prepare an environmental impact report (“EIR”). The primary purpose of an EIR is to inform
28 decision-makers and the public of the potential significant environmental effects of a proposal and

possible ways to reduce or avoid any significant environmental effects. (14 Cal. Code Regs. § 15002(a)(1); *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 [“Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’”].) This information is intended to enable environmental considerations to influence policy development, thereby ensuring that the general plan’s policies will address potential environmental impacts and the means to avoid them.

County Prepares the Draft EIR and GPU

36. The last time the County had updated its General Plan was in 2005. Accordingly, in 2015, the County began the process for updating its General Plan. When originally announced, the update to the General Plan was intended to include an update to the General Plan’s Housing Element. However, the County subsequently decided to treat the Housing Element update as a separate, unrelated project, which has proceeded concurrently.

37. On January 14, 2019, acting as CEQA lead agency, the County of Ventura, Resource Management Agency, Planning Division prepared and distributed a Notice of Preparation. The purpose of the Notice of Preparation was to request that interested persons assist the County by identifying significant environmental issues, mitigation measures, and the range of reasonable alternatives that should be addressed in the EIR.

38. Comments were received at a scoping meeting held at the County Government Center on January 30, 2019, and additional comments were submitted directly to the County.

39. The County published a Notice of Availability (“NOA”) of the Draft EIR on January 9, 2020 announcing that the Draft EIR would be available for public review on January 13, 2020. The purpose of an NOA is to call attention to an EIR and invite interested persons to review and provide comments on significant environmental issues, mitigation measures, and range of reasonable alternatives addressed in the EIR.

40. On January 13, 2020, the County made the GPU and the Draft EIR available to the public.

41. The GPU is comprised of two primary documents: one containing the goals,

1 policies, and implementation programs (sometimes referred to as the “Policy Document”), and a
2 Background Report, which summarizes the County’s existing environmental and regulatory setting
3 and describes a wide range of topics including demographics, public facilities, resources, etc.¹ The
4 Background Report is also used as the “environmental setting” section for the Draft EIR. (14 Cal.
5 Code Regs. § 15125 [an EIR must describe existing environmental conditions in the vicinity of the
6 proposed project, which is referred to as the “environmental setting” for the project].) The
7 Background Report is over 1,000 pages long.

8 42. There were over 400 new goals, policies, and programs that were added to the GPU.
9 In addition, more than half of the prior 2005 General Plan goals, policies, and programs were carried
10 over into the GPU.

11 43. The GPU contained a set of Oil and Gas Policies that were purportedly included to
12 “effectively and safely manage the exploration, production, and drilling of oil and gas resources in
13 Ventura County” (referred to herein as the “Oil and Gas Policies”). These Oil and Gas Policies
14 include, but are not limited to, the following:

- 15 • **COS-7.2** – The County shall require new discretionary oil wells to be located a
16 minimum of 1,500 feet from residential dwellings and 2,500 from any school.
- 17 • **COS-7.4** – The County shall require discretionary development for oil and gas
18 exploration and production to use electrically-powered equipment from 100 percent
19 renewable sources and cogeneration, where feasible, to reduce air pollution and
20 greenhouse gas emissions from internal combustion engines and equipment.
- 21 • **COS-7.6** – The County shall evaluate discretionary development to identify any
22 abandoned oil and gas wells on the project site.
- 23 • **COS-7.7** – The County shall require new discretionary oil wells to use pipelines to
24 convey oil and produced water; oil and produced water shall not be trucked.

25
26 ¹ The County previously published prior draft versions of the Background Report in March 2017,
27 October 2017, and January 2018. The County re-published the Background Report on January 13,
28 2020 with an errata sheet that provided details of revisions that were made to the document. Some
of the revisions included updates to the Wildfires History Map to reflect wildfires in the County
through 2018.

- **COS-7.8 – The County shall require that gases emitted from all new discretionary oil and gas wells shall be collected and used or removed for sale or proper disposal. Flaring or venting shall only be allowed in cases of emergency or for testing purposes.**

44. However, as alleged herein, the Oil and Gas Policies would have the effect of eliminating oil and gas exploration and production in Ventura through the adoption of these unduly restrictive and unlawful policies.

The County Receives Comments on the Draft EIR

45. The Draft EIR and GPU were available for public review from January 13, 2020 to February 27, 2020. During the 45-day comment period, letters and email correspondence were received from numerous public agencies, organizations, and individuals. Approximately 314 commenters submitted comments during this period. Several of the commenters were companies in the oil and gas industry. The California Department of Conservation, Geologic Energy Management Division (“CalGEM”) also submitted comments. These commenters raised numerous concerns with the Draft EIR, including that:

a. Several of the GPU Oil and Gas Policies are infeasible or regulate areas preempted by federal or state law. For instance, the greenhouse gas emission analysis relies upon several policies that are preempted by state or federal law, violate existing private property rights, and are simply infeasible.

b. For example, Oil and Gas Policies COS-7.7 and 7.8 are preempted, as a local agency cannot eliminate the use of trucking of oil or limit flaring to County-defined instances of “testing” or “emergency.” Those activities are governed by state and federal law. Taking credit for such policies that are unlawful or that are infeasible results in an erroneous analysis, not based upon substantial evidence. (See, e.g., *Fed. of Hillside & Canyon Ass’ns v. City of L.A.* (2000) 83 Cal.App.4th 1252, 1261 [mitigation measures must be enforceable].) The Draft EIR further failed to adequately consider whether the GPU’s individual impacts, when considered in the context of other projects proposed within the County, the region, and the individual incorporated cities within the County, results in cumulatively considerable environmental impacts. Finally, the Draft EIR ignored the foreseeable adverse impacts associated with large scale installation of oil and gas

1 pipelines, which include soils/geology, hydrology and water quality, cultural and hazards impacts.
2 (See *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396 [EIR
3 must analyze any action if it is a reasonable, foreseeable consequence of the project].) None of the
4 proposed mitigation measures reduce these potentially significant impacts to less than significant
5 levels.

6 c. The County impermissibly buried the EIR's description of the environmental
7 setting in a 1,000+ page appendix (the Background Report). This impeded the public's ability to
8 fully assess the GPU's significant environmental impacts in contravention of CEQA.

9 d. The Draft EIR further failed to analyze the potentially significant
10 environmental effects that will result from the GPU's unlawful barriers to oil and gas operations.
11 For example, shutting down or severely restricting oil and gas production in Ventura County will
12 increase the state's reliance on foreign oil, which will increase greenhouse gas emissions and
13 impact air quality. These impacts will unquestionably occur within the County.

14 e. Finally, the County improperly prepared an EIR before the Housing
15 Element² was completed, which resulted in improper piecemealing and project segmentation.
16 CEQA mandates lead agencies to analyze the "whole of an action" that may result in a direct or
17 reasonably foreseeable indirect impact. (14 Cal. Code Regs. § 15378(a); *Tuolumne Cty. Citizens*
18 *for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222.)

19 46. On February 28, 2020, CalGEM also submitted comments on the Draft EIR.
20 CalGEM commented that the agency already regulates many of the areas that the GPU seeks to
21 regulate. For instance, CalGEM commented that General Plan 6.10 Implementation Program L
22 requires ongoing County evaluation of potential effects from well stimulation treatment and thermal
23 enhanced recovery, but that CalGEM already oversees well stimulation treatment and underground
24 injection control. CalGEM informed the County that "under the Safe Drinking Water Act, the U.S.
25 Environmental Protection Agency has delegated primacy authority over oil and gas injection wells

26 _____
27 ² Since 1969, the state has mandated that all California cities, towns and counties plan for the
28 housing needs of residents, regardless of income. This state mandate is called the Housing Element
and Regional Housing Needs Allocation, or RHNA. (Gov. Code § 65584.) California's local
governments meet this requirement by adopting housing plans as part of their general plan.

1 to the CalGEM [underground injection control] Program.” CalGEM further commented that Oil
2 and Gas Policy COS-7.8 requires “gases emitted from all new discretionary oil and gas wells shall
3 be collected and used or removed for sale or proper disposal,” but that Public Resources Code
4 section 3300 already declares that “unreasonable waste of natural gas” is unlawful. Finally,
5 CalGEM commented that Oil and Gas Policy COS-7.6 indicates that the County “shall evaluate
6 discretionary development to identify any abandoned oil and gas wells on the project site,” but that
7 Public Resources Code section 3208.1 already “establishes well re-abandonment responsibility
8 when a previously plugged and abandoned well will be impacted by planned property development
9 or construction activities.”

10 47. CalGEM’s comments are persuasive given that it has state and federal authority to
11 regulate oil and gas production in the state and is the agency most equipped to implement those
12 regulations.

13 **County Publishes the Final EIR**

14 48. On July 2, 2020, the County published a Final EIR for public review. The Final EIR
15 identified significant and unavoidable environmental impacts in the following resource areas:
16 Agriculture and Forestry Resources; Air Quality; Biological Resources; Cultural, Tribal, and
17 Paleontological Resources; Greenhouse Gas Emissions; Hazards, Hazardous Materials, and
18 Wildfire; Mineral and Petroleum Resources; Noise and Vibration; Public Services and Recreation;
19 Transportation and Traffic; and Utilities.

20 49. In July 2020, the South Coast Association of Governments adopted the County’s
21 Regional Housing Needs Allocation (“RHNA”), which allocates a given portion of California’s
22 housing need to the County. The County is obligated to revise its General Plan and Zoning
23 Ordinances to accommodate that growth to the extent that it exceeds the General Plan’s
24 assumptions. The County has failed to account for the RHNA in the Project-level or cumulative
25 impact analysis in the EIR.

26 **Planning Commission Holds Public Hearings to Consider Certification of the Final EIR and**
27 **Adoption of the GPU**

28 50. On July 16, 2020, the Planning Commission held a public hearing to consider and

1 make recommendations to the Board of Supervisors regarding adoption and approval of the GPU
2 and GPU Background Report and certification of the Final EIR. (Planning Division Case Number
3 PL17-0141). In contravention of its obligation to independently review and make a
4 recommendation to the Board of Supervisors regarding the General Plan, the Planning Commission
5 ignored conclusions in the Final EIR recommending additional mitigation measures to reduce
6 impacts to mineral and petroleum resources. Instead, the Planning Commission approved the
7 General Plan policies previously proposed by the Board of Supervisors. The Planning Commission
8 ultimately made these recommendations to the Board of Supervisors in advance of their public
9 hearing scheduled for September 1, 2020.

10 51. On September 1, 2020, the Board of Supervisors held a public hearing to consider
11 the County's recommendation. Throughout the process, the County failed to conduct meaningful
12 public outreach, by providing newly published documents shortly before hearings, failing to
13 identify changes that were made, spreading necessary information among numerous appendices,
14 and failing to provide documents that were translated into Spanish. During the hearing, the Board
15 of Supervisors introduced new policies that substantially modified the General Plan, and that were
16 not previously considered by the Planning Commission. The Board of Supervisors subsequently
17 continued the public hearing to September 15, 2020. The Board of Supervisors did not accept
18 public comment during the September 15 public hearing.

19 52. During the September 15, 2020 public hearing, the Board of Supervisors voted to
20 certify the Final EIR and adopt the GPU, as modified by the Board. The Board of Supervisors
21 signed the Notice of Determination on September 15, 2020 and filed it with the Governor's Office
22 of Planning & Research, State Clearinghouse on September 16, 2020.

23 53. The GPU takes effect 30 days after the Board of Supervisors' adoption.
24 Accordingly, the GPU will take effect on or about October 15, 2020.

25 **Respondents Have Impaired Petitioner's Vested Rights Without Finding Any Nuisance**

26 54. The doctrine of vested rights seeks to protect property owners and developers who
27 have substantially relied on past permits and proceeded accordingly with the government's
28 acknowledgement. The doctrine protects a permit holder's right not only to construct, but also to

1 use the premises as authorized by the permit. (*Cty. of San Diego v. McClurken* (1951) 37 Cal.2d
2 683, 691.)

3 55. Petitioner has a fully vested right in the continuation of oil and gas production in
4 Ventura County, including a vested right to receive its royalty share of the oil and gas produced
5 from its leased mineral properties. These vested rights are consistent with long-established plans,
6 including Petitioner's vested rights in its CUPs, which Petitioner has relied on for decades and
7 broadly authorize extraction activities on its mineral properties in perpetuity.

8 56. Petitioner's vested rights may not be abridged absent due process and a finding of
9 nuisance or payment of adequate compensation. (See *Trans-Oceanic Oil Corp. v. Santa Barbara*
10 (1948) 85 Cal.App.2d 776, 789.)

11 57. The County has not found that *any* of the oil and gas operations on Petitioner's
12 properties constitute a nuisance. To the contrary, at all times relevant herein, the continued
13 operations and drilling at Petitioner's properties have occurred lawfully, in compliance with its
14 CUPs, and in a manner that does not create harm or a nuisance to local communities. As these
15 operations are not a nuisance, there can be no impairment of Petitioner's vested rights.

16 58. Accordingly, Petitioner's longstanding and fully vested rights prevent the County
17 from prohibiting activities already authorized by Petitioner's CUPs on the basis of the policies set
18 forth in the GPU. The GPU Oil and Gas Policies would have the effect not only of shutting down
19 a business that has mutually benefitted the County for over a century and helped transform the
20 County into a prosperous and vibrant place to live and work, but also of terminating the right to
21 produce oil – an extraordinarily valuable resource that reduces the need for California to rely on
22 foreign oil resources, which are much more carbon-intensive.

23 59. As just one example, one of the GPU policies prohibits trucks from transporting oil
24 produced from new wells (even when a CUP is in place). This will prevent Petitioner's lessees
25 from transporting oil to market when pipelines malfunction or need repairs, and would therefore
26 prevent Petitioner from collecting its royalties. No other industry has been singled out for such a
27 requirement of alternative transport.

28 60. In the alternative, the "diminishing asset doctrine" applies, which permits oil and

1 gas operators and others in extractive industries to exhaust the mineral value of their property. This
2 doctrine was approved by the California Supreme Court in *Hansen Brothers Enterprises, Inc. v.*
3 *Board of Supervisors of Nevada County, et al.* (1996) 12 Cal.4th 533, 557-558.

4 61. Petitioner's reasonable, investment-based expectation was that its lessees would
5 continue to produce and develop oil and gas until Petitioner's oil and gas producing properties were
6 no longer capable of producing oil and gas in commercial quantities. There has been no delay in
7 utilizing Petitioner's CUPs – in fact, they have been continuously used for more than 70 years –
8 and there are many years of oil and minerals yet to be extracted from Petitioner's properties. Yet
9 the County intends to prohibit the oil and gas operations on Petitioner's properties by way of the
10 GPU. Respondents' actions will have the direct result of substantially diminishing Petitioner's
11 reasonable investment-backed expectations.

12 62. Petitioner has clearly exhibited an intent to continue leasing its properties for the
13 development and production of its oil and gas resources throughout the extent of its properties. The
14 continued development of these resources is a progression of the extractive activity into all areas
15 of Petitioner's mineral estates as authorized by its CUPs.

16 63. Principles of vested rights require that the County eliminate the policies that
17 abrogate Petitioner's longstanding and established rights under its CUPs.

18 **Inverse Condemnation**

19 64. Petitioner is the owner of several mineral estates where its interest in certain parcels
20 of land is mineral rights or overriding royalty interests. Petitioner's CUPs allow Petitioner or its
21 lessee to drill and extract oil, gas, and other hydrocarbons in perpetuity on its mineral properties.
22 These oil and gas fields have substantial value, which will be substantially lost as a result of the
23 GPU.

24 65. By purporting to (1) eliminate Petitioner's and its lessees' vested rights to continue
25 and to complete the development and production of their oil and gas resources within the County,
26 (2) eliminate Petitioner's vested right to receive its royalty share of the oil and gas produced from
27 its mineral properties, and (3) prevent all future oil and gas operations in the County, the GPU
28 effects a *per se* taking of and/or damage to Petitioner's and its lessees' property, without just

1 compensation, in violation of the Fifth Amendment to the United States Constitution and Article I,
2 section 19 of the California Constitution.

3 66. The vested rights rule is grounded upon the constitutional principle that a vested
4 right is a property right which may not be taken without due process of law or just compensation.
5 (*Urban Renewal Agency v. Cal. Coastal. Zone Conservation Comm'n* (1975) 15 Cal.3d 577, 583-
6 84.)

7 67. In the alternative, application of the GPU Oil and Gas Policies effects a taking of
8 Petitioner's property under the principles of *Penn Central Transportation Co. v. City of New York*
9 (1978) 438 U.S. 104. (*Id.* at p. 138 n. 6.) The adoption of the GPU Oil and Gas Policies eliminates
10 substantially all economically viable use of Petitioner's mineral rights within the County for the
11 benefit of the public without prior compensation to Petitioner.

12 68. Petitioner's interests in its oil and gas fields within the County have substantial
13 value, which will be substantially lost as a result of the GPU's Oil and Gas Policies.

14 69. The GPU Oil and Gas Policies will force Petitioner to bear public burdens which, in
15 all fairness and justice, should be borne by the public as a whole.

16 FIRST CAUSE OF ACTION

17 Violations of CEQA – Inadequate EIR

18 (Public Resources Code § 21000, *et seq.*)

19 70. Petitioner realleges and incorporates by reference the foregoing paragraphs as
20 though fully set forth herein.

21 71. CEQA is a comprehensive statute designed to provide for long-term protection of
22 the environment. It accomplishes this in two ways. First, CEQA is designed to inform decision-
23 makers and the public about the potential significant environmental effects of a project. (14 Cal.
24 Code Regs. § 15002(a)(1).) Such disclosure ensures that "long term protection of the environment
25 . . . shall be the guiding criterion in public decisions." (Pub. Res. Code § 21001(d).)

26 72. Second, CEQA directs public agencies to avoid or reduce environmental damage
27 whenever feasible by requiring changes in projects through the use of alternatives or mitigation
28 measures. (See 14 Cal. Code Regs. § 15002(a)(2) and (3); see also *Citizens of Goleta Valley v.*

1 *Board of Supervisors* (1990) 52 Cal.3d 553, 564; *Laurel Heights Improvement Ass'n v. Regents of*
2 *the University of California* (1988) 47 Cal.3d 376, 400.) Consequently, an EIR must identify
3 feasible mitigation measures and alternatives in order to substantially lessen or avoid otherwise
4 significant environmental effects. (Pub. Res. Code §§ 21002, 21081(a); 14 Cal. Code Regs.
5 § 15126.4(a).)

6 73. Respondents committed a prejudicial abuse of discretion and failed to proceed in a
7 manner required by law by certifying and relying on an EIR that fails to meet the requirements of
8 CEQA.

9 74. **Inadequate Project Description.** CEQA requires that the EIR include an accurate
10 project description, and that the nature and objective of a project be fully disclosed and fairly
11 evaluated in the EIR. “‘An accurate, stable and finite project description is the *sine qua non* of an
12 informative and legally adequate EIR.’ However, ‘a curtailed, enigmatic or unstable project
13 description draws a red herring across the path of public input.’” (*San Joaquin Raptor Rescue Ctr.*
14 *v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 655 [quoting *Cnty. of Inyo v. City of L.A.* (1977)
15 71 Cal.App.3d 185, 199, 197-98].)

16 75. The EIR fails to provide a legally adequate project description. For example, the
17 EIR’s project description is impermissibly vague; fails to identify where new land use designations
18 will be applied; fails to identify and describe the policies adopted by the GPU in adequate levels of
19 detail; fails to describe what each new GPU element will actually accomplish; fails to identify what
20 buildout of the plan area would be; and excludes any meaningful description of the implementation
21 measures, actions, and programs necessary to carry out the GPU.

22 76. **Failure to Properly Describe the Environmental Setting.** CEQA and its
23 implementing guidelines require that an EIR “include a description of the physical environmental
24 conditions in the vicinity of the project, as they exist at the time the notice of preparation is
25 published . . . from both a local and regional perspective. This environmental setting will normally
26 constitute the baseline physical conditions by which a lead agency determines whether an impact
27 is significant.” (14 Cal. Code Regs. § 15125(a).)

28 77. The baseline is the starting point from which to measure whether an impact may be

1 environmentally significant. The baseline must thus accurately depict “real conditions on the
2 ground,” not hypothetical or merely allowable conditions. (*Communities for a Better Env’t v. S.*
3 *Coast Air Qual. Mgmt. Dist.* (2010) 48 Cal.4th 310, 321 [*quoting Save Our Peninsula Committee*
4 *v. Monterey Cnty. Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 121].)

5 78. The EIR’s description of the environmental setting and baseline is inadequate and
6 inaccurate, including its description of existing environmental conditions concerning air quality,
7 aesthetics, biological resources, greenhouse gas emissions, energy, geologic hazards, hazards and
8 hazardous materials, land use, mineral and petroleum resources, and population and housing.

9 79. The EIR impermissibly buries description of the existing environmental and
10 regulatory setting in the 1,000+ page Background Report appendix, in direct contravention of
11 CEQA’s mandate. Information “scattered here and there in EIR appendices,” or a report “buried
12 in an appendix,” is not a substitute for a “good faith, reasoned analysis . . .” (*California Oak*
13 *Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219, 1239.) Even the Background
14 Report appended to the Draft EIR fails to adequately describe existing environmental and
15 regulatory conditions.

16 80. Moreover, the EIR’s description of the environmental setting cannot be any longer
17 than necessary to provide an understanding of the significant effects of the project and the
18 alternatives analyzed in the EIR. (14 Cal. Code Regs. § 15125(a).) The description of the
19 environmental setting is over 1,000 pages long and far exceeds what is necessary to understand the
20 project’s significant effects.

21 81. **Failure to Adequately Analyze and Disclose the GPU’s Significant**
22 **Environmental Impacts and Support Conclusions Regarding Environmental Impacts with**
23 **Substantial Evidence.** CEQA requires that an EIR describe the proposed project’s significant
24 environmental effects; each such effect must be revealed and fully analyzed in the EIR. (Pub. Res.
25 Code § 21002.1, 21100(b); 14 Cal. Code Regs. § 15126.2(s).) Significant effect on the environment
26 refers to substantial, or potentially substantial, adverse changes in physical conditions. (Pub. Res.
27 Code §§ 21060.6, 21068, 21100(d).) The CEQA Guidelines further require that in discussing the
28 environmental effects of a project, an EIR should contain “a sufficient degree of analysis to provide

1 decisionmakers with information which enables them to make a decision which intelligently takes
2 account of environmental consequences.” (14 Cal. Code Regs. § 15151.) CEQA requires that
3 substantial evidence in the administrative record support all of the EIR’s conclusions.

4 82. Respondents violated CEQA by certifying an EIR that fails to adequately analyze
5 and disclose the GPU’s environmental impacts and fails to support conclusions regarding
6 environmental impacts with substantial evidence, this includes but is not limited to:

7 a. Failure to adequately analyze and disclose **air quality impacts**, especially
8 impacts associated with implementation of the GPU’s Oil and Gas Policies. In addition, the EIR
9 fails to analyze or disclose that these policies are preempted by state or federal law, violate existing
10 private property rights, and are infeasible. The EIR fails to adequately analyze and disclose the
11 GPU’s air quality impacts associated with favoring imported oil over oil produced in Ventura
12 County, which will deteriorate air quality in the region.

13 b. Failure to adequately analyze and disclose impacts on **biological resources**,
14 including impacts related to wildlife nursery sites, habitat conservation plans, and natural
15 community conservation plans.

16 c. Failure to adequately analyze and disclose impacts on **energy**, including
17 failure to qualitatively evaluate whether the GPU will result in inefficient and wasteful energy
18 consumption, and whether the GPU will conflict with state or local plans.

19 d. Failure to adequately analyze and disclose the GPU’s impacts on
20 **greenhouse gas emissions**, especially impacts associated with implementation of the GPU’s Oil
21 and Gas Policies. In addition, the EIR fails to analyze or disclose that these policies are preempted
22 by state or federal law, violate existing private property rights, and are infeasible. The EIR fails to
23 acknowledge, calculate, and disclose the increased greenhouse gas emissions that would result from
24 the loss of Ventura County crude development opportunities. The EIR also incorrectly analyzes
25 and calculates greenhouse gas emissions generated by the oil and gas industry, while failing to
26 properly analyze and disclose greenhouse emissions from stationary sources in non-oil and gas
27 industrial sectors, including emissions from paper mills.

28 e. Failure to adequately analyze and disclose the GPU’s **hazards and**

1 hazardous materials impacts. The EIR fails to support with substantial evidence the conclusion
2 that Policies HAZ-5.2, HAZ 5.5, HAZ-5.8, and HAZ 7.1 and County Implementation Programs K
3 and L will reduce impacts to less than significant levels.

4 f. Failure to adequately analyze and disclose the GPU's impacts on hydrology
5 and water quality, including failure to support its conclusions regarding water quality and
6 overdraft with substantial evidence.

7 g. Failure to adequately analyze and disclose the GPU's impacts on land use,
8 including the Housing Element. The EIR fails to account for the actual growth for which the
9 County must plan. The EIR also failed to consider the Housing Element in its cumulative impact
10 analysis, despite its concurrent development and foreseeable content.

11 h. Failure to adequately disclose and analyze the GPU's impacts to mineral
12 and petroleum resources, especially impacts associated with implementation of the GPU's Oil
13 and Gas Policies. In addition, the EIR fails to analyze or disclose that these policies are preempted
14 by state or federal law, violate existing private property rights, impair vested rights (including
15 Petitioner's vested rights to receive its royalty share of the oil and gas produced from its properties),
16 and are infeasible.

17 i. Failure to adequately analyze and disclose the GPU's impacts associated
18 with noise and vibration, including failure to support with substantial evidence the conclusion that
19 oil supply facilities are major industrial sources of noise. The EIR's assessment of operational
20 noise fails to analyze or disclose the potential significant increases in traffic associated with the
21 new RHNA allocation in the region and state housing legislation and policies.

22 j. Failure to adequately analyze and disclose the GPU's impacts associated
23 with population and housing, including by improperly splitting off the Housing Element Update
24 (causing piecemealing of the CEQA analysis) and failing to consider the RHNA housing allocation
25 announced by SCAG. The EIR also fails to analyze the housing impacts that will result from the
26 setback requirements under Policy COS-7.2.

27 k. Failure to adequately analyze or disclose the GPU's cumulative impacts
28 related to air quality, greenhouse gas emissions, noise, traffic, aesthetics, mineral and petroleum

1 resources, and biological impacts among others. The County also failed to analyze or disclose the
2 GPU's cumulative impacts by **impermissibly piecemealing** its analysis in the EIR. The purpose
3 of the cumulative impacts analysis is to avoid considering projects in a vacuum, because failure to
4 consider cumulative harm may risk environmental disaster. (*Whitman v. Bd. of Supervisors* (1979)
5 88 Cal.App.3d 397, 408.) Without this analysis, piecemeal approval of several projects with related
6 impacts will lead to severe environmental harm. (*San Joaquin Raptor/Wildlife Rescue Ctr. v.*
7 *County of Stanislaus* (1994) 27 Cal.App.4th 713, 720.) In addition to the Housing Element Update,
8 the County has impermissibly piecemealed and segmented the GPU from its concurrent Zoning
9 Code text amendments to Article 7, Section 8107-5 of the Non-Coastal Zoning Ordinance, and
10 Article 5, Section 8175-5.7 of the Coastal Zoning Ordinance. Those amendments modify
11 permitting requirements for new oil and gas exploration and production operations and will require
12 discretionary approvals for new oil and gas activities undertaken in reliance on so-called
13 "antiquated permits." The EIR expressly anticipates those amendments to the Zoning Code, yet
14 the County has made no effort to analyze the foreseeable impacts of implementing the zoning
15 amendments, including cumulative impacts, which will severely curtail oil and gas production in
16 the County and impair Petitioner's vested rights. The County's improper piecemealing has further
17 deprived the public of its right to informed review of the EIR and GPU.

18 **83. Failure to Adopt Feasible Mitigation Measures.** An EIR must propose and
19 describe mitigation measures to minimize the significant environmental effects identified in the
20 EIR. (Pub. Res. Code §§ 21002.1(a), 21100(b)(3); 14 Cal. Code Regs. § 15126.4.) The requirement
21 that EIRs identify mitigation measures implements CEQA's policy that agencies adopt feasible
22 measures when approving a project to reduce or avoid its significant environmental effects. (Pub.
23 Res. Code §§ 21002, 21081(a).) "Feasible" means "capable of being accomplished in a successful
24 manner within a reasonable period of time, taking into account economic, environmental, legal,
25 social, and technological factors." (14 Cal. Code Regs. § 15364.)

26 **84.** Respondents failed to adopt feasible mitigation measures to reduce potentially
27 significant environmental effects.

28 **85.** The EIR fails to adopt feasible mitigation measures to reduce impacts to mineral

1 and petroleum resources, including but not limited to the loss of availability of known petroleum
2 resources that are of value to the region, County, and residents of the state and precluding access
3 to those resources. Respondents admit that impacts to mineral and petroleum resources, including
4 impacts caused by the Oil and Gas Policies, will be significant but fail to adopt feasible mitigation
5 measures to reduce those impacts to less than significant levels.

6 86. Respondents conclude that proposed mitigation measures to reduce impacts to
7 mineral and petroleum resources are infeasible but fail to support those conclusions with substantial
8 evidence.

9 87. The EIR further fails to adopt feasible measures to mitigate greenhouse gas
10 emissions and air quality impacts, including impacts associated with implementation of the GPU's
11 Oil and Gas Policies.

12 88. **Adoption of Inadequate and Infeasible Mitigation Measures.** An EIR must
13 describe feasible mitigation measures that could minimize the project's significant adverse impacts.
14 (14 Cal. Code Regs. § 15126.4(a)(1).) Lead agencies must avoid remote, ineffective, and
15 speculative mitigation measures. (*Fed. of Hillside & Canyon Ass'ns, supra*, 83 Cal.App.4th at
16 p. 1260.) Moreover, it is ordinarily inappropriate to defer formulation of a mitigation measure to
17 the future. (14 Cal. Code Regs. § 15126.4(a)(1)(b).) Respondents have adopted inadequate and
18 infeasible mitigation measures.

19 89. The EIR fails to disclose and consider that several mitigation measures are infeasible
20 because they are preempted by federal, state, and/or local law and/or cannot be carried out without
21 unlawfully impairing vested property rights and cannot be enforced. (See, e.g., *Fed. of Hillside &*
22 *Canyon Ass'ns, supra*, 83 Cal.App.4th at p. 1261 [mitigation measures must be enforceable].)

23 90. **Failure to Adequately Respond to Comments.** A CEQA lead agency must
24 evaluate comments on environmental issues received from persons who reviewed and commented
25 on the EIR during the public comment period, and the CEQA lead agency must prepare written
26 responses to such comments. (14 Cal. Code Regs. § 15088(a).) The written response must describe
27 the disposition of significant environmental issues raised. (*Id.*, § 15088(c).) When the CEQA lead
28 agency's position is at variance with recommendations and objections raised in the comments, the

1 responses to comments must address such recommendations and objections in detail, and the
2 responses must explain why specific comments and suggestions were not accepted. (*Id.*)
3 Conclusory statements unsupported by factual information will not suffice. (*Id.*)

4 91. The public, including Petitioner, submitted numerous comments to the County
5 throughout the environmental review process. Yet, the County either ignored these comments or
6 glossed over their substance with conclusory responses. For example, the County failed to
7 adequately address comments regarding issues of preemption related to the Oil and Gas Policies,
8 impairment of vested rights, and the infeasibility of various policies, alternatives, mitigation
9 measures, and goals.

10 92. **Failure to Recirculate the EIR.** CEQA requires that if significant new information
11 is added to an EIR after a draft EIR is prepared, but before certification of the final EIR, an amended
12 EIR must be recirculated for public review and comment. (Pub. Res. Code § 21092.1; 14 Cal. Code
13 Regs. § 15088.5; *Vineyard Area Citizens for Residential Growth v. City of Rancho Cordova* (2007)
14 40 Cal.4th 412, 414.)

15 93. Respondents failed to recirculate the Draft EIR despite inclusion of significant new
16 information in the Final EIR. For example, the County included new oil and gas information, data,
17 calculations, and analyses. The County also included significant new information regarding the
18 greenhouse gas inventory and forecast.

19 94. Recirculation is further required because the EIR omitted key information necessary
20 to determine what the GPU's potentially significant impacts would be. (*Mountain Lion Coalition*
21 *v. Fish & Game Comm.* (1989) 214 Cal.App.3d 1043, 1046-47.)

22 95. Respondents have also failed to revise the EIR to add missing required information,
23 address legal deficiencies, and correct false and unsupported impact analyses. Accordingly, the
24 EIR is fundamentally flawed and must be recirculated. (14 Cal. Code Regs. § 15088.5.)

25 96. As a result of the foregoing defects and others according to proof, the EIR is legally
26 defective and Respondents have failed to comply with CEQA's procedural requirements. By
27 certifying an EIR that failed to comply with CEQA's mandates, Respondents committed a
28 prejudicial abuse of discretion, failed to proceed in the manner required by law, and acted without

1 substantial evidentiary support. Accordingly, the Court should issue a writ of mandamus directing
2 Respondents to set aside certification of the EIR and approval of the GPU.

3 **SECOND CAUSE OF ACTION**

4 **Violations of CEQA – Failure to Substantially Support Factual Findings**

5 **(Public Resources Code § 21000, *et seq.*)**

6 97. Petitioner realleges and incorporates by reference the foregoing paragraphs as
7 though fully set forth herein.

8 98. CEQA requires that a lead agency's findings for the approval of a project be
9 supported by substantial evidence in the record. (14 Cal. Code Regs. § 15091.) CEQA further
10 requires that a lead agency provide an explanation of how evidence in the record supports the
11 conclusions it has reached. As a result of the inadequacies in the environmental analysis identified
12 above, the findings adopted by Respondents are not supported by substantial evidence as required
13 by CEQA.

14 99. Respondents violated CEQA by adopting findings that are inadequate as a matter of
15 law as they are not supported by substantial evidence in the record, including but not limited to the
16 following:

- 17 a. Findings supporting the GPU's Oil and Gas Policies.
- 18 b. Findings that recirculation of the Draft EIR was not required.
- 19 c. Findings that proposed mitigation measures and alternatives to the GPU that
20 would have avoided or lessened the significant impacts of the GPU were
21 infeasible.
- 22 d. Findings that certain environmental impacts would be less than significant
23 or that adopted mitigation measures would avoid or lessen the GPU's
24 significant effects on the environment.

25 100. Respondents' findings fail to reflect the independent judgment of Respondents.

26 101. As a result of the foregoing defects and others according to proof, Respondents
27 committed a prejudicial abuse of discretion, failed to proceed in the manner required by law, and
28 acted without substantial evidentiary support by making determinations or adopting findings that

1 do not comply with the requirements of CEQA and approving the GPU in reliance thereon.
2 Accordingly, Respondents' certification of the Final EIR and approval of the GPU must be set
3 aside.

4 **THIRD CAUSE OF ACTION**

5 **(Petition for Writ of Traditional Mandamus Under Code of Civil Procedure Section 1085 or**
6 **Alternatively under Section 1094.5)**

7 102. Petitioner realleges and incorporates by reference the foregoing paragraphs as
8 though fully set forth herein.

9 103. Petitioner seeks a writ of traditional mandamus pursuant to Code of Civil Procedure
10 Section 1085, or alternatively Section 1094.5. The adoption of the GPU is preempted because the
11 County is preempted from intruding upon the state's exclusive jurisdiction over certain parts of oil
12 and gas regulations.

13 104. California has adopted numerous statutes and regulations that comprehensively
14 regulate virtually all aspects of oil and gas operations. Oil and gas operations are specifically
15 governed by Division 3 of the Public Resources Code (Pub. Res. Code § 3000, *et seq.*) and its
16 implementing regulations (14 Cal. Code Regs. § 1712, *et seq.*) By and through this all-
17 encompassing statutory and regulatory scheme, the State of California, through CalGEM, has
18 exclusive jurisdiction over the field of oil and gas operations, methods, and procedures to the
19 exclusion of local legislation.

20 105. The GPU impermissibly attempts to indirectly prohibit or impair oil and gas
21 subsurface operations by imposing restrictive regulations. This includes, but is not limited to, the
22 GPU Oil and Gas Policies and General Plan 6.10 Implementation Program L ("Program L").

23 106. The Attorney General has concluded that a conflict arises whenever local
24 government attempts to "exercise control over subsurface activities," whether "directly or
25 indirectly." (59 Ops.Cal.Atty. Gen 461, 478; *Desert Turf Club v. Bd. of Supervisors* (1956) 141
26 Cal.App.2d 446, 452.)

27 107. The GPU Oil and Gas Policies are preempted by federal and state law, providing
28 that CalGEM has exclusive jurisdiction to regulate the drilling, operation, maintenance, and

1 abandonment of oil, gas, and geothermal wells, and attendant facilities. CalGEM further has
2 exclusive jurisdiction to regulate the use of pipelines and the flaring of gas. The GPU Oil and Gas
3 Policies and Program L attempt to indirectly prohibit or impair subsurface operations by imposing
4 restrictive regulations, in direct contravention of applicable law.

5 108. Program L requires ongoing County evaluation of potential effects from well
6 stimulation treatment and thermal enhanced oil recovery. Program L is preempted by federal and
7 state law, providing that CalGEM has exclusive jurisdiction to regulate well stimulation treatment
8 and underground injection control. Under the federal Safe Drinking Water Act, the U.S.
9 Environmental Protection Agency has delegated primacy authority over oil and gas injection wells
10 to the CalGEM Underground Injection Control Program.

11 109. GPU Policy COS-7.2 requires setbacks from well heads to address air toxics
12 produced at the well head. This Policy is preempted, including by AB 2588, which requires a
13 facility-specific evaluation of air toxic risk posed to nearby residents and businesses. AB 2588
14 ensures appropriate distances and control measures to minimize air toxic risks to nearby residents
15 and businesses.

16 110. GPU Policy COS-7.4 attempts to require evaluations of well stimulation treatment
17 and enhanced oil recovery projects for seismic, groundwater, greenhouse gas emission, and other
18 impacts. This Policy is preempted, including by Senate Bill 4, codified in Pub. Res. Code. § 3150,
19 et seq. Senate Bill 4 explicitly directs CalGEM to promulgate extensive regulations governing well
20 stimulation treatments in California.

21 111. GPU Policy COS-7.5 requires restoration for oil and gas sites. GPU Policy COS-
22 7.5 is preempted, including by 14 Cal. Code Regs. § 1776, which requires well sites to be returned
23 to as near a natural state as practicable within 60-days of plugging and abandonment of any oil and
24 gas well. Section 1776 also requires oilfield lease restoration to include the removal of all tanks,
25 above-ground pipelines, debris, and other facilities equipment.

26 112. GPU Policy COS-7.6 indicates that the County “shall evaluate discretionary
27 development to identify any abandoned oil and gas wells on the project site.” This Policy is
28 preempted, including by Public Resources Code section 3208.1, which establishes well re-

1 abandonment responsibility when a previously plugged and abandoned well will be impacted by
2 planned property development or construction activities. Section 3208.1 gives CalGEM the
3 authority to order or permit the re-abandonment of any well where it has reason to question the
4 integrity of the previous abandonment, or if the well is not accessible or visible.

5 113. GPU Policy COS-7.8 attempts to restrict flaring of natural gas on new wells except
6 for emergencies and testing. Policy COS-7.8 is preempted, including by state law that expressly
7 provides for flaring of natural gas (Pub. Res. Code §§ 3300, 3500-3503; 17 Cal. Code Regs.
8 §§ 95665-95677). This Policy is also preempted by 40 C.F.R. Part 60, Subpart A General
9 Provisions, which regulates flares, including those at oil and gas facilities. Policy COS-7.8 is
10 further preempted by state regulations that cover measurement and reporting of flare emissions.
11 (See, e.g., 40 CFR Part 98 Mandatory Greenhouse Gas Reporting; 17 Cal. Code Regs., Mandatory
12 Greenhouse Gas Reporting).

13 114. By adopting the GPU Oil and Gas Policies, the County has acted unlawfully and
14 beyond the scope of its statutory and regulatory authority as set forth in California and federal law.

15 115. In adopting the GPU Oil and Gas Policies and Program L, the Planning Commission
16 and Board of Supervisors also failed to comply with its legal obligations under the Government
17 Code. The Planning Commission failed to conduct an independent review and recommendation of
18 the General Plan, as required by Government Code section 65354. The Board of Supervisors
19 substantially modified the General Plan by adding and modifying policies and mitigation measures
20 that were not previously considered by the Planning Commission, in violation of Government Code
21 section 65356.

22 116. The County has acted arbitrarily and capriciously and has abused its discretion.

23 117. Petitioner has a beneficial interest in ensuring that the County does not enforce the
24 GPU Oil and Gas Policies, which exceed its authority and are preempted by state and federal
25 statutes. Petitioner owns thousands of acres in the County and has an interest in ensuring its right
26 to receive its royalty share of the oil and gas produced from its properties, which are impacted by
27 the preempted Oil and Gas Policies.

28 118. Petitioner is irreparably harmed by the County's adoption of the GPU Oil and Gas

1 Policies.

2 119. Petitioner has no plain, speedy and adequate remedy at law to challenge the GPU
3 Oil and Gas Policies other than the relief sought herein. Without the resolution of these challenges,
4 Petitioner will be permanently and irreparably harmed by implementation of the GPU Oil and Gas
5 Policies.

6 120. Because the adoption of the GPU Oil and Gas Policies is quasi-legislative in nature
7 and not adjudicatory, Petitioner bring this action under Code of Civil Procedure section 1085. In
8 the alternative, however, Petitioner also seek a writ of mandamus under Code of Civil Procedure
9 section 1094.5 to the extent, if any, that the Court concludes section 1094.5 is applicable here.

10 **FOURTH CAUSE OF ACTION**

11 **(Declaratory Relief – Preemption)**

12 121. Petitioner realleges and incorporates by reference the foregoing paragraphs as
13 though fully set forth herein.

14 122. Pursuant to federal and state law, the power and authority to regulate oil and gas
15 operations, methods, and procedures in California lies exclusively in the State of California,
16 including with CalGEM. The provisions of the GPU Oil and Gas Policies and Program L purport
17 to regulate, restrict, prohibit, and/or impair subsurface operations in the County, and are in direct
18 conflict with superior California law, including, without limitation, the sections of the California
19 Public Resources Code relating to oil and gas production, Senate Bill 4, CalGEM regulations, and
20 permits lawfully issued by CalGEM.

21 123. Respondents lack the power, authority, and jurisdiction to indirectly prohibit or
22 impair subsurface operations by imposing restrictive policies, as that power is exclusively a
23 function of the State of California. Moreover, the laws of the State of California preempt and fully
24 occupy regulation of the fields of drilling of oil and gas wells, well stimulation treatment,
25 underground injection control, enhanced oil recovery, well abandonment and re-abandonment,
26 flaring, and restoration of oil and gas sites. The provisions of the GPU Oil and Gas Policies and
27 Program L purporting to regulate, restrict, prohibit, and/or impair subsurface operations are
28 preempted, in whole or in part, by federal and state law, and, as such, are invalid and without

1 effect.

2 124. The Planning Commission and Board of Supervisors failed to comply with their
3 legal obligations under the Government Code. The Planning Commission failed to conduct an
4 independent review and recommendation of the General Plan, as required by Government Code
5 section 65354. The Board of Supervisors substantially modified the General Plan by adding
6 policies that were not previously considered by the Planning Commission, in violation of
7 Government Code section 65356.

8 125. Petitioner is informed and believes, and thereon alleges, that Respondents dispute
9 the contentions set forth above.

10 126. Judicial intervention in these disputes, and a declaration by the Court, is necessary
11 to resolve whether the adoption of the GPU is invalid under the Government Code and whether its
12 Oil and Gas Policies are preempted, in whole or in part, by federal and state law.

13 **FIFTH CAUSE OF ACTION**

14 **(Declaratory Relief – Impairment of Vested Rights)**

15 127. Petitioner realleges and incorporates by reference the foregoing paragraphs as
16 though fully set forth herein.

17 128. Petitioner seeks a declaration from this Court that Petitioner has a vested right in the
18 continuation of oil and gas production in Ventura County, including a vested right to receive its
19 royalty share of the oil and gas produced from its mineral properties.

20 129. The doctrine of vested rights seeks to protect property owners and developers who
21 have substantially relied on past permits and proceeded accordingly with the government's
22 acknowledgement. The doctrine protects a permit holder's right not only to construct, but also to
23 use the premises as authorized by the permit. (*County of San Diego v. McClurken* (1951) 37 Cal.2d
24 683, 691.)

25 130. Petitioner and its predecessor entities have either extracted oil and gas or leased their
26 rights to other operators who have extracted oil and gas, for more than a hundred years. Petitioner
27 is the holder of two CUPs issued in 1948 and the other 1949. The CUPs have been continuously
28 used for more than 70-years. They broadly authorize Petitioner to engage in extraction activities

1 within the County.

2 131. Petitioner's oil and gas production activities long pre-date issuance of the CUPs, but
3 subsequent to issuance of the CUPs, all operations have been conducted in accordance with their
4 terms and all other applicable regulations.

5 132. Petitioner and its lessees have vested rights under the CUPs to the continued
6 development and production of oil and gas in the fields in which they have interests, consistent
7 with long-established plans and Petitioner's vested rights in the CUPs. Such vested rights prohibit
8 the County from prohibiting activities authorized by the CUPs by adopting the GPU.

9 133. Petitioner, its predecessors, or its lessees have drilled wells and installed equipment
10 with the expectation that additional wells would be drilled under applicable permits. "The very
11 nature and use of an extractive business contemplates the continuance of such use of the entire
12 parcel of land as a whole, without limitation or restriction to the immediate area excavated at the
13 time the ordinance was passed." (*Hansen Brothers Enterprises, Inc. v. Bd. of Supervisors of*
14 *Nevada County, et al.* (1996) 12 Cal.4th 533, 557-558.)

15 134. Petitioner has a vested right to continue its operations in its Ventura County
16 oilfields, which may not be abridged absent due process and a finding of nuisance or payment of
17 adequate compensation. "The owner of a property right to drill for and extract oil in a proven
18 field acquired under a permit, may not constitutionally be deprived thereof without payment of
19 just compensation except upon a showing that its exercise constitutes a nuisance." (*Trans-*
20 *Oceanic Oil Corp. v. Santa Barbara, supra*, 85 Cal.App.2d at p. 789.) The County has not found
21 that any of the oil and gas production activities on Petitioner's properties constitute a nuisance.
22 To the contrary, at all times relevant herein, the continued operations and drilling at Petitioner's
23 properties have occurred lawfully, in compliance with its CUPs, and in a manner that does not
24 create harm or a nuisance to local communities.

25 135. In the alternative, the "diminishing asset doctrine" applies, which permits oil and
26 gas operators and others in extractive industries to exhaust the mineral value of their property. This
27 doctrine was approved by the California Supreme Court in *Hansen Brothers Enterprises, Inc. v.*
28 *Bd. of Supervisors of Nevada County, et al.* (1996) 12 Cal.4th 533. There are many years of oil and

1 minerals yet to be extracted from Petitioner's properties. Petitioner's reasonable, investment-based
2 expectation was that its lessees would continue to produce and develop oil and gas until Petitioner's
3 oil and gas producing properties were no longer capable of producing oil and gas in commercial
4 quantities. Respondents' actions will have the direct result of substantially diminishing Petitioner's
5 reasonable investment-backed expectations.

6 136. Petitioner's vested rights prevent Respondents from prohibiting activities authorized
7 by Petitioner's permits on the basis of the GPU's Oil and Gas Policies.

8 137. Petitioner is informed and believes, and thereon alleges, that Respondents dispute
9 Petitioner's contention set forth above, and intend to unlawfully prohibit and/or restrict Petitioner's
10 oil and gas operations by way of the GPU.

11 138. Judicial intervention in this dispute, and a declaration by the Court, is necessary to
12 resolve whether Petitioner has a vested right in the continuation of oil and gas production in Ventura
13 County, including a vested right to receive its royalty share of the oil and gas produced from its
14 mineral properties.

15 **SIXTH CAUSE OF ACTION**

16 **(Declaratory Relief – Violation of Article 1, § 19 of the California Constitution (Inverse**
17 **Condemnation) and Violation of the Takings Clause of the Fifth and Fourteenth**
18 **Amendments to the United States Constitution)**

19 139. Petitioner realleges and incorporates by reference the foregoing paragraphs as
20 though fully set forth herein.

21 140. The GPU constitutes a taking of Petitioner's property, as well as the property of any
22 oil and gas operators to whom they may have leased, for public use without prior compensation in
23 violation of Article 1, section 19 of the California Constitution and the Takings Clause of the Fifth
24 and Fourteenth Amendments to the United States Constitution.

25 141. "Under the law of this state the landowner has a property right in oil and gas beneath
26 the surface, not in the nature of an absolute title to the oil and gas in place, but as an exclusive right
27 to drill upon his property for these substances." (*Bernstein v. Bush* (1947) 29 Cal.2d 773, 778.)
28 "This is a right which is 'as much entitled to protection as the property itself, and the undue

1 restriction of the use thereof is as much a taking 'for constitutional purposes as appropriating or
2 destroying it.'" (*Ibid.*, citation omitted.)

3 142. Respondents' adoption of the GPU is part of a concerted effort to stop oil and gas
4 production in the County, directly attacking ongoing business interests.

5 143. By purporting to (1) eliminate Petitioner's and its lessees' vested rights to continue
6 and to complete the development and production of their oil and gas resources within the County,
7 (2) eliminate Petitioner's vested right to receive its royalty share of the oil and gas produced from
8 its mineral properties, and (3) to prevent all future oil and gas operations in the County, the GPU
9 effects a *per se* taking of and/or damage to Petitioner's and its lessees' property, without just
10 compensation, in violation of the Fifth Amendment to the United States Constitution and Article I,
11 section 19 of the California Constitution. The vested rights rule is grounded upon the constitutional
12 principle that a vested right is a property right which may not be taken without due process of law
13 or just compensation. (*Urban Renewal Agency v. Cal. Coastal. Zone Conservation Comm'n, supra*,
14 15 Cal.3d at pp. 583-84.

15 144. In the alternative, application of the GPU effects a taking of Petitioner's property
16 under the principles of *Penn Central Transportation Co. v. City of New York* (1978) 438 U.S. 104.

17 145. The adoption of the GPU eliminates substantially all economically viable use of oil
18 and gas fields within the County in which Petitioner owns an interest. These restrictions are
19 imposed for the purported benefit of the public without prior compensation to Petitioner.

20 146. Petitioner's CUPs allow Petitioner or its lessee to drill and extract oil, gas, and other
21 hydrocarbons in perpetuity on its mineral properties. These oil and gas fields have substantial
22 value, which will be substantially lost as a result of the GPU. The GPU would make Petitioner's
23 vested rights under its CUPs valueless.

24 147. Petitioner is the owner of several mineral interests whose interest in certain parcels
25 of land is minerals or overriding royalty interests. Even taking into account the existing production
26 occurring at Petitioner's and its lessees' oilfields within the County, available oil reserves within
27 the field (and thus its economic value) will be lost as a result of the GPU. Thus, the GPU
28 substantially eliminates Petitioner's property interest.

1 148. The GPU will cause a significant interference with Petitioner's distinct,
2 investment-backed expectations in these fields.

3 149. Respondents' adoption of the GPU also substantially impairs Petitioner's and its
4 lessees' property rights within the County for the benefit of the public without prior compensation
5 to Petitioner. (*Lingle v. Chevron U.S.A. Inc.* (2005) 544 U.S. 528, 540.)

6 150. A judicial determination of the invalidity of the GPU is necessary and appropriate
7 to avoid the deprivation of state and federal constitutional rights that will result from applying the
8 GPU to oil and gas production operations by Petitioner's lessees and the resulting damages to
9 Petitioner.

10 **SEVENTH CAUSE OF ACTION**

11 **(Damages for Taking or Damaging of Property for Public Use Without Prior Compensation**
12 **in Violation of Article 1, § 19 of the California Constitution and Violation of the Takings**
13 **Clause of the Fifth and Fourteenth Amendments to the United States Constitution (Inverse**
14 **Condemnation))**

15 151. Petitioner realleges and incorporates by reference the foregoing paragraphs as
16 though fully set forth therein.

17 152. At the time Respondents adopted the GPU, Petitioner was the owner of surface
18 rights and mineral rights in land within the County.

19 153. For decades prior to Respondent's actions in drafting, reviewing, and adopting the
20 GPU, Petitioner and its lessees had a vested right to continue drilling operations within the County
21 under its CUPs, which allow Petitioner to drill and extract oil, gas, and other hydrocarbons in
22 perpetuity on its mineral properties. Such a vested right prevents Respondents from prohibiting
23 activities authorized by the CUPs by adopting the GPU. Petitioner also has a vested right to receive
24 its royalty share of the oil and gas produced from its mineral properties.

25 154. The GPU imposes an unconstitutional taking as it eliminates Petitioner's vested
26 right to continue and to complete the development and production of its oil and gas resources in the
27 County, including its vested right to receive its royalty share of the oil and gas produced from its
28 mineral properties, all pursuant to existing CUPs that allow Petitioner to drill and extract oil, gas,

1 and other hydrocarbons in perpetuity on its mineral properties.

2 155. The adoption of the GPU will virtually eliminate the economically viable use of
3 Petitioner's mineral rights within the County for the benefit of the public without prior
4 compensation to Petitioner. The adoption of the GPU also substantially impairs the property rights
5 of Petitioner in its oil and gas fields within the County for the benefit of the public without prior
6 compensation to Petitioner. Even if the GPU Oil and Gas Policies are subsequently invalidated as
7 against Petitioner, Petitioner will suffer damages to its property rights as a result of the current
8 implementation of the GPU Oil and Gas Policies.

9 156. In taking such action, Respondents violated Article 1, section 19 of the California
10 Constitution, which prohibits the taking or damaging of private property for public use without
11 prior, just compensation. Further, Respondents violated the Takings Clause of the Fifth
12 Amendment to the U.S. Constitution, as incorporated by the Fourteenth Amendment, which
13 prohibits the taking of private property for public use without prior, just compensation.

14 157. As a direct result of Respondents' actions as alleged herein, the adoption of the GPU
15 will interfere with the reasonable investment-backed expectations of Petitioner.

16 158. To date, Petitioner has not received any compensation from Respondents on account
17 of the above alleged taking of, or damage to, its property rights. Respondents failed to ascertain
18 the just compensation due to Petitioner prior to adoption of the GPU.

19 159. As a direct and proximate result of Respondents' violation of Article 1, section 19
20 of the California Constitution and the takings clause of the Fifth Amendment of the U.S.
21 Constitution, as alleged above, Petitioner has been and will be damaged from the interference with
22 its reasonable investment-backed expectations in its mineral properties within the County, and will
23 suffer further damages in an amount to be determined at trial.

24 **EIGHTH CAUSE OF ACTION**

25 **(Declaratory Relief – Violation of Article I, Section 7 of the California Constitution and**
26 **Violation of the Fourteenth Amendment to the United States Constitution (Due Process))**

27 160. Petitioner realleges and incorporates by reference the foregoing paragraphs as
28 though fully set forth herein.

1 161. The adoption of the GPU was arbitrary and discriminatory, and not reasonably
2 related to any legitimate governmental purpose. One of the purposes of the GPU is to prohibit oil
3 and gas operations in the County, despite successful operation there for decades. For these reasons,
4 the adoption of the GPU violates Petitioner's due process rights under Article 1, section 7 of the
5 California Constitution as well as the Due Process Clause of the Fourteenth Amendment to the
6 United States Constitution.

7 162. The U.S. and California Constitutions guarantee persons equal protection of the law
8 and adequate due process – rights which also apply in the land use context. (Cal. Const., Art. 1, §
9 7(a); U.S. Const. amend. V, XIV; *College Area Renters & Landlord Ass'n v. City of San Diego*
10 (1996) 43 Cal.App.4th 677, 686.)

11 163. Courts have held that where a land use regulation does not legitimately advance a
12 state interest and instead is arbitrary and capricious, substantive due process claims can be upheld.
13 (See, e.g., *Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229.)

14 164. While one of stated purposes of the GPU is “[t]o effectively and safely manage the
15 exploration, production, and drilling of oil and gas resources in Ventura County,” the GPU actually
16 has the effect of imposing requirements and restrictions that indirectly prohibit oil and gas
17 operations in the County, including by rendering them infeasible or impossible, rather than “safely
18 manag[ing]” those operations.

19 165. There is no legitimate interest in prohibiting oil and gas operations in the County.
20 There is no legitimate interest in eliminating an industry that is already highly regulated and
21 permitted by various government entities.

22 166. The GPU also interferes with Petitioner's vested rights to continue and to complete
23 the development and production of its oil and gas resources in the County, including its vested right
24 to receive its royalty share of the oil and gas produced from its mineral properties.

25 167. There are substantive due process requirements that vested rights cannot be
26 terminated or impaired by ordinary police power regulations, and can be revoked or impaired only
27 to serve a “compelling state interest,” such as harm, danger or menace to public health and safety
28 or public nuisance, and that the government's interference with the vested right be narrowly tailored

1 to address the compelling interest and its magnitude. (See *Washington v. Glucksberg* (1997) 521
2 U.S. 702, 721; *Davidson v. County of San Diego* (1996) 49 Cal.App.4th 639.) The County has not
3 identified any compelling state interest to justify terminating or impairing Petitioner's vested rights.
4 Nor is there any. At all times relevant herein, the continued operations and drilling at Petitioner's
5 properties have occurred lawfully, in compliance with its CUPs, and in a manner that does not
6 create harm or a nuisance to local communities.

7 168. Moreover, the GPU imposes impermissible and arbitrary restrictions on Petitioner
8 and its lessees that are not imposed on similarly situated persons or businesses, including use of
9 public roads. This is precisely the type of unequal treatment that has been found to be in violation
10 of the Constitution's equal protection clause. (See, e.g., *Parks v. Watson* (9th Cir. 1983) 716 F.2d
11 646, 652; *Frost & Frost Trucking Co. v. Railroad Comm.* (1926) 271 U.S. 583, 591.)

12 169. A bona fide actual controversy exists between Petitioner and Respondents in that
13 Petitioner alleges, and Respondents deny, that the adoption of the GPU violated Article 1, section
14 7 of the California Constitution and the Due Process Clause of the Fourteenth Amendment to the
15 United States Constitution.

16 170. Petitioner desires a judicial determination of the validity of the GPU to save itself
17 from the harm caused by the GPU, which prohibits oil and gas operations in the County. The
18 adoption of the GPU results in substantial hardship to Petitioner.

19 171. A judicial determination of the invalidity of the GPU is necessary and appropriate
20 to avoid the deprivation of state and federal constitutional rights that results from applying the GPU
21 to Petitioner.

22 **JURY TRIAL DEMAND**

23 Petitioner requests a jury trial as to all causes of action for which one is permitted.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Petitioner prays for judgement and further relief as follows:

26 A. For alternative and peremptory writs of mandamus, commanding Respondents:

27 a. To vacate and set aside approval of the GPU;

28 b. To vacate and set aside certification of the Final EIR for the GPU;

- 1 c. To prepare and certify a legally adequate EIR for the GPU;
- 2 d. To suspend any and all activity pursuant to Respondents' approval of the GPU that
- 3 could result in an adverse change or alteration to the physical environment until the
- 4 County has complied with all requirements of CEQA and all other applicable state
- 5 and local laws, policies, ordinances, and regulations as are directed by this Court
- 6 pursuant to Public Resources Code section 21168.9;
- 7 B. For interlocutory and permanent injunctive relief enjoining Respondents, and each of them,
- 8 from engaging in any activity pursuant to the GPU until the GPU complies with CEQA and
- 9 all other applicable state and local laws, policies, ordinances, and regulations;
- 10 C. For a declaration that the Ventura County Board of Supervisors violated CEQA in
- 11 approving the GPU;
- 12 D. For a declaration that the Ventura County Board of Supervisors violated CEQA in
- 13 approving the GPU;
- 14 E. For a declaration that the GPU's policies are preempted, in whole or in part, by federal and
- 15 state law, and are invalid and without effect
- 16 F. For a declaration that the Ventura County Planning Commission and Board of Supervisors
- 17 acted in violation of its obligations under the Government Code in approving the GPU;
- 18 G. For a declaration that the GPU violates Petitioner's vested rights;
- 19 H. For a declaration that the GPU violates Petitioner's due process rights;
- 20 I. For a declaration that the GPU violates provisions of the California Constitution and the
- 21 United States Constitution;
- 22 J. For just compensation, according to proof, for permanent taking of property;
- 23 K. For just compensation, according to proof, for temporary taking of property;
- 24 L. For an award of damages according to proof;
- 25 M. For Petitioner's costs of suit incurred herein;
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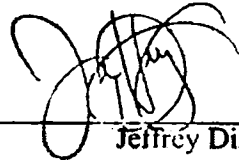
- 1 N. For attorney's fees pursuant to Code of Civil Procedure sections 1021.5 and 1036; and
2 O. For such other and further relief as the Court deems just and proper.

3 Respectfully submitted,

4 Dated: October 15, 2020

ALSTON & BIRD LLP
JEFFREY D. DINTZER
MATTHEW W. WICKERSHAM
GREGORY S. BERLIN
GINA M. ANGIOLILLO

5
6
7
8 By: _____



Jeffrey Dintzer

9
10 Attorneys for Petitioner and Plaintiff
LLOYD PROPERTIES, A CALIFORNIA LIMITED
11 PARTNERSHIP
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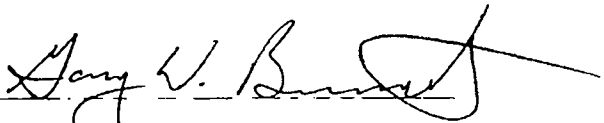
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VERIFICATION

I, Gary W. Brummett, am President of Lloyd Management Corporation, the Managing General Partner of Lloyd Properties, a California limited partnership. Lloyd Properties, a California limited partnership, is a petitioner in this proceeding. I am authorized to make this verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDAMUS AND COMPLAINT FOR DAMAGES AND DECLARATORY RELIEF and know the contents thereof. The contents are true of my own knowledge, except as to matters stated therein on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 15, 2020.



Gary W. Brummett

EXHIBIT A

ALSTON & BIRD

333 South Hope Street, 16th Floor
Los Angeles, CA 90071-1410
213-576-1000 | Fax: 213-576-1100

Jeffrey D. Dintzer

Direct Dial: 213-576-1063

Email: jeffrey.dintzer@alston.com

VIA CERTIFIED U.S. MAIL and E-MAIL

October 13, 2020

Ventura County and Ventura County Board of Supervisors
Attn: Mark A. Lunn, Ventura County Clerk-Recorder
Ventura County Government Center
Hall of Administration Building, Main Plaza
800 South Victoria Avenue
Ventura, CA 93009-1260
clerk.recorder@ventura.org

Ventura County and Ventura County Board of Supervisors
Attn: Rosa Gonzalez, Chief Deputy Clerk of the Board
Ventura County Government Center
Hall of Administration Building, Fourth Floor
800 S. Victoria Ave.
Ventura, CA 93009-1940
clerkoftheboard@ventura.org

Re: Notice of Intent to Commence Action Against Ventura County and the Ventura County Board of Supervisors

Dear Ms. Gonzalez and Mr. Lunn:

PLEASE TAKE NOTICE, under Public Resources Code § 21167.5, that Petitioner and Plaintiff, Lloyd Properties, a California Limited Partnership, will file a Petition for Writ of Mandate and Complaint against Defendants and Respondents, County of Ventura and Ventura County Board of Supervisors, for failure to observe the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000, *et seq.*, and the CEQA Guidelines, California Code of Regulations § 15000, *et seq.*, in the administrative process that culminated in the County's September 15, 2020 decision to adopt the Ventura County 2040 General Plan Update ("GPU") and to certify the Environmental Impact Report for the GPU.

The relief that Petitioner intends to seek with the Petition for Writ of Mandate and Complaint includes, but is not limited to, the following:

- **Alternative and peremptory writs of mandate, commanding Respondents:**
 - To vacate and set aside approval of the GPU;
 - To vacate and set aside certification of the Final EIR for the GPU;
 - To prepare and certify a legally adequate EIR for the GPU; and
 - To suspend any and all activity pursuant to Respondents' approval of the GPU that could result in an adverse change or alteration to the physical environment until the County has complied with all requirements of CEQA and all other applicable state and local laws, policies, ordinances, and regulations as are directed by this Court pursuant to Public Resources Code section 21168.9.
- For interlocutory and permanent injunctive relief enjoining Respondents, and each of them, from engaging in any activity pursuant to the GPU until the GPU complies with CEQA and all other applicable state and local laws, policies, ordinances, and regulations.
- For declaratory judgment that the Ventura County Board of Supervisors violated CEQA in approving the GPU.
- For a declaration that the Ventura County Board of Supervisors' failure to prepare, consider, and approve or certify an adequate environmental analysis under CEQA is a prejudicial abuse of discretion.
- For a declaration that the GPU's policies are preempted, in whole or in part, by federal and state law, and are invalid and without effect.
- For a declaration that the GPU violates Petitioner's vested rights.
- For a declaration that the GPU violates provisions of the California Constitution and the United States Constitution.
- For compensation, according to proof, for permanent taking of property.
- For compensation, according to proof, for temporary taking of property.
- For an award of damages according to proof.
- For Petitioner's costs of suit.
- For attorney's fees pursuant to Code of Civil Procedure sections 1021.5 and 1036.

Notice of Intent to Commence Action Against Ventura County and the Ventura County Board of
Supervisors
October 13, 2020
Page 3

If you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "JD Dintzer", with a small flourish at the end.

Jeffrey D. Dintzer

PROOF OF SERVICE

I, Claudia Jimenez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, California, 90071.

On October 13, 2020, I served the document(s) described as **NOTICE OF INTENT TO COMMENCE ACTION AGAINST VENTURA COUNTY AND VENTURA COUNTY BOARD OF SUPERVISORS** on the following parties, as shown below:

Ventura County and Ventura County Board of Supervisors
Attn: Mark A. Lunn, Ventura County Clerk-Recorder
Ventura County Government Center
Hall of Administration Building, Main Plaza
800 South Victoria Avenue
Ventura, CA 93009-1260

Ventura County and Ventura County Board of Supervisors
Attn: Rosa Gonzalez, Chief Deputy Clerk of the Board
Ventura County Government Center
Hall of Administration Building, Fourth Floor
800 S. Victoria Ave.
Ventura, CA 93009-1940

☒ BY CERTIFIED MAIL/RETURN RECEIPT REQUESTED: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California, 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing ***Via Certified Mail, Return Receipt Requested*** with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California, 90071.

☒ [State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 13, 2020, at Los Angeles, California.


CLAUDIA JIMENEZ

EXHIBIT B

1 JEFFREY D. DINTZER (State Bar No. 139056)
MATTHEW C. WICKERSHAM (State Bar No. 241733)
2 GREGORY S. BERLIN (State Bar No. 316289)
GINA M. ANGIOLILLO (State Bar No. 323454)
3 ALSTON & BIRD LLP
333 South Hope Street, 16th Floor
4 Los Angeles, CA 90071-1410
Telephone: 213-576-1000
5 Facsimile: 213-576-1100
E-mail: jeffrey.dintzer@alston.com
6

7 Attorneys for Petitioner and Plaintiff
LLOYD PROPERTIES, A CALIFORNIA
8 LIMITED PARTNERSHIP

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF VENTURA

11 LLOYD PROPERTIES, A CALIFORNIA
LIMITED PARTNERSHIP,

12 Petitioner and Plaintiff,

13 v.
14

15 COUNTY OF VENTURA; VENTURA COUNTY
BOARD OF SUPERVISORS; and DOES 1 through
20, inclusive,

16 Respondents and Defendants.
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Case No. _____

CEQA CASE

**NOTICE OF ELECTION TO
PREPARE ADMINISTRATIVE
RECORD**

**[Pub. Res. Code § 21000, *et seq.*
(California Environmental Quality Act);
Code Civ. Proc. § 1085 (alternatively
1094.5)]**

1 Pursuant to Public Resources Code § 21167.6(b)(2), Petitioner and Plaintiff Lloyd
2 Properties, a California Limited Partnership, elects to prepare the administrative record of
3 proceedings in the above-captioned proceeding.

4
5 Dated: October 15, 2020

ALSTON & BIRD LLP
JEFFREY D. DINTZER
MATTHEW C. WICKERSHAM
GREGORY BERLIN
GINA M. ANGIOLILLO

6
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8
9
10 By: 

11 _____
Jeffrey D. Dintzer

12 Attorneys for Petitioner and Plaintiff
13 LLOYD PROPERTIES, A CALIFORNIA
14 LIMITED PARTNERSHIP
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EXHIBIT C

ALSTON & BIRD

333 South Hope Street, 16th Floor
Los Angeles, CA 90071-1410
213-576-1000 | Fax: 213-576-1100

Jeffrey D. Dintzer

Direct Dial: 213-576-1063

Email: jeffrey.dintzer@alston.com

VIA CERTIFIED U.S. MAIL

October 15, 2020

Attorney General Xavier Becerra
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

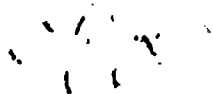
Re: Notice to Attorney General

Dear Attorney General Becerra:

PLEASE TAKE NOTICE, under Public Resources Code § 21167.7 and Code of Civil Procedure § 388, that on October 15, 2020, Lloyd Properties, a California Limited Partnership, filed a verified petition for writ of mandate and complaint against the County of Ventura and Ventura County Board of Supervisors in Ventura County Superior Court.

A copy of the petition and complaint is attached to this notice.

Sincerely,



Jeffrey D. Dintzer

PROOF OF SERVICE

I, Claudia Jimenez, declare:

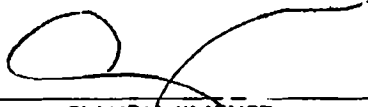
I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, California, 90071.

On October 15, 2020, I served the document(s) described **NOTICE TO ATTORNEY GENERAL** on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

Attorney General Xavier Becerra
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

- ☒ BY CERTIFIED MAIL/RETURN RECEIPT REQUESTED: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California, 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing ***Via Certified Mail, Return Receipt Requested*** with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California, 90071.
- ☒ I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 15, 2020, at Los Angeles, California.



CLAUDIA JIMENEZ